REMARKS

A. Status of the Application

Claims 1–55 were originally filed with this application. Applicant previously elected to withdraw Claims 19-43, 48 and 49 from consideration, and cancel Claims 13, 14, 16-18 and 52-55.

Presently the Examiner has reject Claims 1-12, 15, 47, 50-52 and 54-56 (all of the pending claims).

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B. Rejections of the Claims under 35 U.S.C. § 103

The Examiner rejected claims 1-12, 15, 47, 50-52 and 54-56 as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 6,867,820 ("Jin").

With the response the previous non-final office action the Applicant requested that Claim 1 be amended to read as follows:

> 1. A terminal for optimizing audio equipment for the reproduction of an audio signal that has source characteristic data and that is transmitted through a delivery channel, comprising:
>
> a receiver that receives the audio signal and the source characteristic data;
>
> a memory that stores the source characteristic data and delivery channel capability data; ~~and~~
>
> a processor that generates optimized configuration data for reproducing the audio signal based on the source characteristic data, ~~and~~ the delivery channel capability data and audio equipment data; and
>
> a control interface that couples the terminal with the audio equipment, wherein the processor generates the optimized configuration data based on the audio equipment data, and wherein the optimized configuration data is transmitted through the control interface to the audio equipment so as to automatically, without any user input, configure the audio equipment based on the optimized configuration data.

In rejecting this claim, the Examiner relied upon *In re Venner*, 262 F.2d 91 (CCPA 1959), citing in particular page 95 of that decision, which stated:

> "Furthermore, it is well settled that it is not "invention" to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result. In re Rundell, 18 CCPA 1290, 48 F.2d 958, 9 USPQ 220."

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The Applicant agrees, merely making a manual process into an automatic process, without introducing any other inventive or novel steps would indeed be less than novel. That being said, Applicant submits that the instant invention is not simply the introduction of automation into the invention disclosed in Jin.

Jin provides for a method wherein certain parameters, such as the number available speakers, amplifier connections, and source content information are detected (see col. 5, lines 43-50), and as a function of these detected parameters, a user is proved with access to on-screen menus (col. 5, line 65 – col. 6, line 5). The user can then employ the menus to select a desired listening mode and adjust the audio environment (see examples 1-6, col. 6, line 32 – col. 7. line 55). Jin doesn't provide for optimizing and configuring an audio system (the purpose to which the Applicant's invention is directed), rather Jin collects audio system data and provides a user with access to compatible menus. Nothing in Jin suggests a system or method wherein a user is directed to employ a particular optimal or preferred configuration by manipulating the menus. If Jin provided for such, then perhaps the Applicant's invention could be viewed as merely making Jin automatic.

In re Venner dealt with the combination of a mold, a timer, and solenoid to "automatically" eject material from the mold in response to a fixed time elapsing on the timer. Previously timers had been used to determine when material should be removed from such molds manually. The court saw the invention (or lack thereof) as merely replacing a human action with a triggered automated function. There is no function in Jin analogous to automatic optimization of an audio system as is claimed by the Applicant in Claim 1. Jin simply provides a method for displaying certain menus that pertain to the detected audio system; there is no determination as to what configuration of the audio system might result in an optimized listening environment for a user. *In re Venner* should not be seen as relevant to the rejection of the instant case in view of Jin, and reconsideration of this claim is requested.

Similarly, the method claimed in Claim 44 of the instant application requires "generating optimized configuration data based on the audio equipment data; and automatically configuring the audio equipment, without any user input, based on the optimized configuration data." Consequently, the Applicant believes the arguments put forth above with respect to Claim 1 can be rightfully applied to Claim 44. . There is no function in Jin analogous to configuring

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an audio system based upon optimized configuration data, and *In re Venner* should not be seen as relevant to the rejection of Claim 44.

    Reconsideration of this claim is requested.

The Examiner also rejected claims 2-12, 15, 43-47, 50-52 and 54-56 as unpatentable in view of Jin. As all of these claims depend directly or indirectly upon Claim 1 or Claim 44, the Applicant believes they too are allowable over Jin, and requests reconsideration by the Examiner.

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CONCLUSION

The pending claims are believed to patentably distinguishable from the cited art, and Applicant respectfully requests that they be passed to allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

Dated: May 8, 2006   Respectfully submitted,

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